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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,206	12/09/2003	M. Scott Wilfong	390-00101	5982

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EXAMINER

HOFFBERG, ROBERT JOSEPH

ART UNIT	PAPER NUMBER
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2835

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

4-D

Office Action Summary	Application No. 10/733,206	Applicant(s) WILFONG, M. SCOTT	
	Examiner Robert J. Hoffberg	Art Unit 2835	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/9/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/9/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show Glass Face 18 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Paragraph [025] should reference Figure 3 in the first line.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 16 are rejected under 35 U.S.C. 102(b) as being as being anticipated by Hanson (US 5,400,212).

With respect to Claim 1, Hanson teaches that the preconstruction utility pedestal comprising: an elongated support member (Fig. 1 #14) defining an inner side and an outer side and having a top end and a bottom end (Col. 14, lines 48-50); a plate (Fig. 1 #98) affixed on the inner side of said support member for attachment to a foundation wall (Fig. 1 #12) for a building; a first bracket (Fig. 1 #30) substantially parallel to said plate disposed on said support member for mounting an electric meter at the top end of said support member so said electric meter faces toward said outer side; an electric power outlet (Fig. 1 #54) removably (Col. 5, line 53 temporary) secured to said support member proximate to said first bracket and accessible from said outer side, said electric power outlet removably connectable (Fig. 1 #56) to an electric meter (Fig. 1 #18); and a second bracket substantially parallel to said first bracket for mounting a gas utility meter, said second bracket affixed to said support member intermediate (Col. 6 line 41) of said plate and said first bracket.

With respect to Claim 2, Hanson teaches that the pedestal of claim 1 wherein said electric power outlet and said second bracket are disposed on opposite sides of said support member (Fig. 1 shows the electric power outlet on the left side and the second bracket on the right side).

With respect to Claim 3, Hanson teaches that the pedestal of claim 1 further comprising a third bracket (Fig. 1 #116) disposed on and spaced inwardly and parallel to said second bracket, said third bracket for attachment to a stud wall (Col. 3 lines 19-20 exterior building walls) of said building.

With respect to Claim 4, Hanson teaches that the pedestal of claim 3 wherein said third bracket is spaced inwardly (Col 8, line 1 back) the width of a brick facia (Col. 8, line 15 thickness).

With respect to Claim 5, Hanson teaches that the pedestal of claim 1 wherein said second bracket has a first meter mounting portion (Col. 6, line 2) and a second elongated portion (Fig. 3 #90 and Col. 6, lines 54-59) extending substantially perpendicular to and extending away (Col. 6, lines 47-48) from said support member to space said meter mounting portion from said electric power outlet and said first bracket to a predetermined distance.

With respect to Claim 6, Hanson teaches that the pedestal of claim 1 further comprising a second plate affixed to said support member (Fig. 1, line 96) for attachment to a foundation wall (Col. 8, lines 30-32).

With respect to Claim 7, the addition of indicia fails to further patentably define over the structure of claim 1. As such the claim falls with the rejection of the parent

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claim. Ex parte Gwinn (112 USPQ 439-449) states that "Where sole distinction set out in the claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed" and "sole difference over art being in printed matter (indicia), different is substance, language, or meaning of the same whether generally accepted or arbitrary, cannot serve to impart patentability".

With respect to Claim 16, Hanson teaches that the preconstruction utility pedestal comprising: an elongated hollow support member (Fig. 1 #14) defining an inner side and an outer side and having a top end and a bottom end; a first plate (Fig. 1 #98) affixed on the inner side of said support member for attachment to a foundation wall (Fig. 3 #12) for a building; a first bracket (Fig. 1 #30)) substantially parallel to said plate disposed on said support member for mounting an electric meter (Fig. 1 #18) at the top end of said support member so said electric meter faces toward said outer side; an electric power box (Fig. 1 #54) removably secured to said support member proximate to said first bracket and facing said outer side; said electric power outlet removably (Fig. 1 #56) connectable to an electric meter; a second bracket (Fig. 1 #80) substantially parallel to said first bracket for mounting a gas utility meter, said second bracket affixed to said support member intermediate (Col. 6, line 41) of said plates and said first bracket and opposite (Fig. 1 electric power outlet on left and second bracket on right)

said electric power outlet; and a second plate (Fig. 1 #96) affixed to said support member for attachment to a foundation wall (Fig. 1 #12).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson (US 5,400,212) as applied to claim 1 above, and further in view of Nickola (US 3,614,538).

With respect to Claim 8, Hanson teaches that the method of providing metered utility service to a building during construction comprising: mounting (Col. 8, lines 30-31) a pedestal to a foundation wall of said building; laying electric supply line and gas supply line in a single in-ground trench (Col 2, lines 20-25) to said pedestal; mounting to said pedestal an electric meter (Fig.1 #18); removably mounting an electric power outlet (Fig. 1 #54) to said pedestal and operatively connecting said electric power outlet to said electric meter; operably connecting (Fig. 1 #56) said electric supply line to said electric meter. Hanson lacks mounting a gas meter to said pedestal; and operably connecting said gas supply line to said gas meter. Nickola teaches mounting a gas

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meter to said pedestal; and operably connecting said gas supply line to said gas meter.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pedestal of Hanson with that of Nickola for the purpose of adding the gas meter to conveniently furnish utilities (Col 1, lines 11-16).

With respect to Claim 9, Hanson teaches that the method of claim 8 further comprising the step of disconnecting said electric outlet from said electric meter before operably connecting said gas supply line to said gas meter. References do not specifically disclose the disconnection of the electrical outlet before connecting the gas meter, however safety precautions require this disconnection to prevent an explosion hazard (see Straight. US 1,932,537).

With respect to Claim 10, method of claim 8 further comprising the step of affixing a notice to said pedestal providing instructions to disconnect said electric outlet before mounting said gas meter is nonfunctional printed matter and fails to further distinguish over claim 8. Ex parte Gwinn (112 USPQ 439-449).

With respect to Claim 11, Hanson teaches that the method of claim 8 further comprising the step of installing a brick facia (Fig 11 #128) on said foundation wall, anchoring (Fig. 11 #130) said electric meter and gas meter thereto.

With respect to Claim 12, Hanson teaches that the method of claim 8 further comprising the step of laying telephone service supply line in said trench (Col. 2, lines 20-25).

With respect to Claim 13, Hanson teaches that the method of claim 8 further comprising the step of laying a signal transmission line in said trench (Col. 2, lines 20-25).

With respect to Claim 14, Hanson teaches that the method of providing metered utility service to a building during construction comprising: mounting to a foundation wall of said building a pedestal; providing electric supply to said pedestal; mounting to said pedestal an electric meter; removably mounting an electric power outlet to said pedestal and operatively connecting said electric power outlet to said electric meter; operably connecting said electric supply line to said electric meter. Nickola teaches mounting a gas supply to said pedestal mounting a gas meter to said pedestal (Col. 1, lines 11-16). Safety considerations recommend before operably connecting said gas supply line to said gas meter, disconnecting said electric outlet from said electric meter (see Straight. US 1,932,537). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pedestal of Hanson with that of Nickola for the purpose of adding the gas meter to conveniently furnish utilities.

With respect to Claim 15, Hanson teaches that the method of claim 14 further comprising installing a brick facia (Col. 8, line 15) on said foundation wall, anchoring (Fig. 11 #130) said electric meter and gas meter thereto.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Hoffberg whose telephone number is (571) 272-2761. The examiner can normally be reached on 8:30 AM - 4:30 PM Mon - Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D. Feild can be reached on (571) 272-2092. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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